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Docket No. DAS-101XC2  
Serial No. 10/609,113Remarks

Claims 25, 26, 28, 30, and 33-51 were the subject of the final office action dated January 10, 2007. By this Response, claims 41 and 44-51 are canceled, and claims 52-55 are added. Thus, claims 25, 26, 28, 30, 33-40, 42-43, and 52-55 are now presented for further consideration.

The applicants respectfully traverse the rejection for lack of an adequate written description. While it is stated in the office action that the exemplified species of *Paenibacillus* are insufficient to represent the genus of *Paenibacillus*, the applicants respectfully submit that methods of screening *Paenibacillus* isolates are being claimed. The second paragraph of this rejection (on page 2 of the office action) states, for example, that the screening is "...directed to a plurality of identifying all of the pluralities from *Paenibacillus* isolates..." At the top of page 3 of the office action, it is again stated that "Although the claims are directed to the entire genus of *Paenibacillus* isolates and toxin proteins identified by the claims..." This is untrue, and the foregoing mischaracterization of the claims indicates a miscomprehension of the claimed invention, as well as error in the subject rejection.

The claimed invention is directed to methods of screening, and not all the fruits (*i.e.* toxins) thereof. Implicit in claimed methods is a step of selecting a plurality of *Paenibacillus* isolates to screen. This is well within the skill of the art, and sources and species for such selections are discussed throughout the specification, including paragraphs 46-50, 288, 305, and 318.

While the office action appears to be focusing on all possible species of *Paenibacillus*, the focus should be on the claimed methods and on the exemplified methods. Clearly, a representative selection of screening methods and sources for such are disclosed.

When viewed in this light, the claimed invention might appear to be rather simple. (Hence, it should be clear that it is adequately described.) However, there was no prior teaching, motivation, or suggestion to screen this group of well-known organisms.

Claims 52-55 are directed to preferred species of *Paenibacillus*. Support for these claims can be found in the paragraphs identified above.

In light of all the foregoing, the withdrawal of this rejection for lack of an adequate written description is respectfully requested.

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Docket No. DAS-101XC2  
Serial No. 10/609,113The claimed invention is novel.

All of the pending claims stand rejected as lacking novelty in view of Morgan et al., which is cited as teaching screening of *Bacillus* isolates. This is a complete misreading of the art. Morgan et al. is directed to *Xenorhabdus* and *Photorhabdus* genes.

The subject invention relates in part to screening a novel source, *Paenibacillus*, for proteins that potentiate the activity of *Xenorhabdus* and *Photorhabdus* toxins TcbA, TcdA, XptA1, and XptA2, for example. The term "*Paenibacillus*" does not appear in this reference.

In light of the foregoing, the withdrawal of this rejection for anticipation is respectfully requested.

The claimed invention is non-obvious.

All of the pending claims stand rejected as being obvious in view of Warren et al. and Morgan et al. The applicants respectfully traverse this rejection.

It is admitted in the middle of page 7 of the office action that Warren et al. does not teach XptA1, XptA2, TcbA, and TcdA (which are toxin proteins).

The limited teachings of Morgan et al. with respect to the presently claimed invention are discussed above.

Thus, it should be clear that Morgan and Warren taken together, and considering what was known in the art, in no way teach, suggest, or motivate one to screen *Paenibacillus* isolates for the specified activity with *Xenorhabdus*/*Photorhabdus* protein toxins.

In light of the foregoing, the withdrawal of this rejection for obviousness is respectfully requested.

The applicants believe that this application is in condition for allowance, and such action is earnestly solicited.

The Assistant Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 and 1.17 as required by this paper to Deposit Account 19-0065.

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Serial No. 10/609,113

The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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(Date Signed & Faxed)

JMS/mrc

Attachments: Petition and Fee for Extension of time Under 37 CFR §1.136(a)